



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

MEMO ENDORSED

April 7, 2017

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

USDC SDNY
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Re: *United States v. Joseph Percoco, et al.*, 16 Cr. 776 (VEC)

Dear Judge Caproni:

The Government respectfully writes in response to the Court's January 25, 2017 order requiring the Government to update the Court weekly with regard to the status of discovery.

As we explained in our letter dated March 28, 2017, the Energy Company originally produced documents (the "Energy Company Documents") to the Government in .pdf format, and we produced the Energy Company Documents to the defendants between December 2016 and February 2017. In response to a defense request, the Government asked the Energy Company to re-produce the Energy Company Documents with any additional metadata they possessed. Those re-produced Energy Company Documents with metadata were made available to the defendants on April 5, 2017.

Separately, the Government continues to expect to make available by April 11, 2017 approximately 4,170 pages of documents, which will include additional documents obtained during its ongoing investigation as well as documents released by relevant counsel after having initially been withheld as potentially privileged. At present, the Government is processing for production an additional approximately 48,559 pages of such materials and will produce them as they become available. The Government will continue to process and produce promptly any additional documents it obtains during its ongoing investigation.

As an update to our last discovery status letter dated March 31, 2017, based on communications between relevant counsel and an Assistant United States Attorney who is walled off from the prosecution team, the Government understands that Alain Kaloyeros's counsel expects to provide a privilege log today with respect to documents previously withheld as potentially privileged.

Finally, as set forth in our previous discovery status letters as well as at the pretrial conference on April 6, 2017, the Government has completed production of discoverable materials obtained by the Government as of the initial pretrial conference on December 1, 2016, and has

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made rolling productions of the additional materials obtained since that time. We expect that the volume of future productions will be substantially smaller than the volume of the productions made to date, and that productions will occur less frequently. In view of these facts, as well as the fact that the Court has set a motion schedule and a firm trial date, the Government respectfully inquires of the Court whether the Government should continue to submit weekly discovery update letters. The Government respectfully requests that the Court no longer require such updates, or, to the extent the Court does require continued periodic updates, that such updates be filed once every six weeks.

Respectfully submitted,

JOON H. KIM

Acting United States Attorney

By: /s/ David Zhou

Janis Echenberg/Robert Boone/
David Zhou/Matthew Podolsky
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cc: Counsel for all defendants (via ECF)

The Government must file a letter on a monthly basis as to the status of discovery, with the next letter due on or before May 12, 2017.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the typed name.

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

4/10/2017